



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/853,703	05/14/2001	John Muraca	1503.1002	6536
21171	7590	09/10/2007		
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER NGUYEN, TRAN N	
			ART UNIT 3626	PAPER NUMBER
			MAIL DATE 09/10/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/853,703	Applicant(s) MURACA, JOHN	
	Examiner Tran N. Nguyen	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-21, 23-35 and 37-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-21, 23-35 and 37-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 July 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/31/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3626

DETAILED ACTION

Notice to Applicant

This communication is in response to the communication filed 07/31/2007.

Pending claim(s): 1-7, 9-21, 23-35, 37-44. Cancelled claim(s): 8, 22, 36. New claim(s): 43-44. Amended claim(s): 1, 15, 29.

Examiner notes that the text of all pending claims submitted 06/04/2007 does not indicate the correct status for claims 15, 29, i.e. (currently amended).

Priority

Acknowledgment is made of Applicant's claim for priority to applications 60236726 filed 10/02/2000 and 60221558 filed 07/28/2000.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 07/31/2007 is entered and considered by Examiner.

Drawings

The drawings were received on 07/27/2001. These drawings are acceptable.

Art Unit: 3626

Response to Amendment

As per the rejection of claims 8, 22, 36 under 35 USC 112, second paragraph imposed in the previous Office Action, this rejection is hereby withdrawn in view of Applicant's cancellation of claims 8, 22, 36.

As per the rejection of claims 2, 9-11 under 35 USC 102(b) as being anticipated by Evans (5924074), this rejection is hereby withdrawn in view of Applicant's arguments on page 10-11 of the Remarks filed 06/04/2007 (hereafter "Remarks").

Claim Objections

Claim 14 is objected to because of the following informalities: "a messages".

Claims 28, 42 are objected to because of the following informalities: "transmitting transmitted".

Claim 41 is objected to because of the following informalities: claim 41 is recited as being dependent upon claim 39; however, claim 39 does not recite compressing, encrypting, or encapsulating.

For purposes of applying prior art, Examiner interprets claim 41 to depend on claim 40.

Art Unit: 3626

Appropriate correction is requested.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim(s) 1-7, 9-21, 23-35, 37-44 is/are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 1, the limitation "image data in medical record modality formats and in multi-media formats" renders the scope of the claim indefinite. The terms "medical record modality formats" and "multi-media formats" are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

For purposes of applying prior art, Examiner interprets this limitation to recite a plurality of image formats.

All claims dependent thereon, namely claims 2-7, 9-14 fail to remedy these deficiencies, and are therefore rejected for at least the same rationale as applied to claim 1, and incorporated herein.

Art Unit: 3626

Claims 15-21, 23-35, 37-44 are also rejected for the same rationale as applied to claims 1-7, 9-14 above, and incorporated herein.

Additional clarification is requested.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim(s) 1-7, 9-11, 15-21, 23-25, 29-35, 37-39, 43-44 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans in view of Hacker (6988075) and Applicant Admitted Prior Art (hereafter "AAPA").

As per claim 1, Evans teaches a system (It is noted that a system is considered to be "an apparatus") (Abstract), comprising:

Art Unit: 3626

(a) an EMR system (It is noted that the EMR system is considered to be “a computer system”) (Abstract, column 2 line 21) capable of communicating with portable computers (It is noted that communicating with portable computers are considered to be “executing portability enabling software”) (Abstract);

(b) wherein the EMR system is capable of sharing patient medical records between a plurality of external systems (Figure 1 label 106, “EXTERNAL DATA”, Figure 12, Figure 13 label 219, Figure 17A-B) via a data handler and a communication interface (Figure 16 label 272, 274, column 10 line 18-35), and a plurality of legacy systems via a data converter (column 12 line 35-53, Figure 23);

(c) wherein the EMR system is capable of supporting communication among a variety of hardware components (It is noted that a plurality of hardware components are considered to be “different... computer platforms”) using a variety of operating systems (column 13 line 31-56), wherein the hardware components comprise:

(i) a PC (Figure 24 label 412, 416, 418);

(ii) a pen-based portable computer (It is noted that the pen-based portable computer is considered to be “a hand-held device”) (Figure 24 label 420);

(iii) a network (Figure 24 label 404, 414);

(d) wherein the EMR system is capable of populating and updating the patient record with text (Figure 14 label 223) and image data (Figure 14 label

Art Unit: 3626

225) from legacy data systems (column 8 line 57-60) and external sources (column 8 line 18 to column 9 line 37);

(e) wherein image data is stored in a plurality of formats (Figure 14 label 225);

(f) wherein the EMR system is capable of capturing patient data during a patient encounter with a physician (It is noted that encounter data is considered to be "patient episode data") (column 6 line 10 line 10-36, Figure 4) and controlling access thereto via a password system (It is noted that the password system is considered to be "a secure file") (column 15 line 21-32);

(g) wherein the patient data comprises e-mails from other healthcare providers (column 8 line 67 to column 9 line 1).

Evans further teaches that the patient data repository comprises a relational database supporting the Open Database Connectivity (ODBC) model, wherein ODBC is an application program interface (API) capable of enabling client applications running under Microsoft Windows to access data from a variety of data sources, including relational and non-relational DBMS, wherein these data sources may reside on a client machine or on a remote server (column 14 line 8-25).

Evans further teaches a patient locator capable of locating patient data in a plurality of external sources (column 8 line 18 to column 9 line 37).

Examiner submits that the ODBC model and patient locator of Evans are considered to be a form of "a master control file" when viewed in light of Applicant's specification.

Art Unit: 3626

Notwithstanding the above, page 3 paragraph 3 of Applicant's specification reads as follows:

"One way of providing a common set of medical information communications protocols, or common standards, is by an architecture which includes the use of a master control file. A master control file (or MCF) is middleware software storing information which, when read by a computer program referred to as an engine, provides an interface between an application program and the WINDOWS operating system. The master control file (or MCF) provides an open, **interoperable, platform and language independent distributed (MCF) architecture**. This approach has been enormously successful and has been **adopted by numerous large firms** around the world as the basic architecture for their complex Patient Record information systems. This infrastructure provides a great deal of power, scalability, and interoperability." (emphasis added)

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of AAPA within the invention as disclosed by Evans with the motivation of enabling client applications to access data from a plurality of external data sources (Evans; column 14 line 11-14).

Evans and AAPA do not teach:

- (a) "transmitting the secure file as an e-mail attachment";
- (b) "retrieving the patient episode data from the secure file";
- (c) "storing the patient episode data in the medical records system".

Hacker teaches a system (Abstract) capable of:

Art Unit: 3626

(a) attaching updated information from the patient visit to an e-mail
(column 8 line 41-42);

(b) translating the attached information by software on the server (It is noted that translating data is considered to be "retrieving") (column 8 line 43);

(c) updating the patient medical record on the medical information database with the translated data (column 8 line 44-45).

Evans teaches a password system, as discussed above and incorporated herein.

It is also noted that the official notice taken in the previous Office Action is taken to be AAPA because Applicant failed to traverse Examiner's assertion.

Page 7 of the previous Office Action reads as follows: "It is well known that emailing data over a network requires some form of security for the data".

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Hacker and AAPA within the invention as disclosed by Evans and AAPA with the motivation of providing privacy for patient records (Hacker; column 6 line 1-10), and of providing convenience to medical providers who have their own electronic medical record system and only need access to very little "outside" medical information (Hacker; column 8 line 25-34).

As per claim 2, Evans teaches a graphical user interface (It is noted that the GUI is considered to be "medical software") capable of being deployed on a

Art Unit: 3626

wireless pen-based or laptop computer (Figure 24, column 6 line 9-55, column 13 line 12-30).

As per claim 3, Evans teaches that the ODBC/API is capable of enabling client applications to access data from a variety of data sources, wherein the client is capable of storing, annotating, entering, and accessing patient medical records stored in the patient data repository (column 5 line 1-28, column 14 line 8-25).

As per claim 4, Evan teaches a data manager/patient locator capable of creating a data structure comprising a patient identifier, wherein the data structure comprises pointers to data structures having data within a patient record captured by a pointer of care system (e.g., X-ray images), wherein there exists a plurality of data structures created by the patient locator comprising patient data, interface files, clinical data, progress notes (Figure 13), wherein the files comprises patient data types (reads on "field names, attributes") (Figure 12 column 8 line 29-60).

As per claim 5, Evans teaches database tables comprising a plurality of field names, comprising a patient identifier (Figure 13), wherein the EMR system is capable of using the field names to locate, store, and retrieve data (Figure 13, column 5 line 1-28, column 8 line 29 to column 9 line 37).

Art Unit: 3626

As per claim 6, Evans teaches a plurality of pointers to a plurality of patient data structures, comprising a reference database, wherein the patient data structure and patient locator are capable of using the pointers to locate, store, and retrieve data (Figure 13, column 5 line 1-28, column 8 line 29 to column 9 line 37).

As per claim 7, Evans teaches a plurality of pointers to image data, wherein the EMR system is capable of displaying the image data when the healthcare provider accesses the files using the data manager (Figure 13-14, column 4 line 64 to column 5 line 27, column 8 line 29 to column 9 line 37).

As per claim 9, Evans teaches an electronic medical records system capable of being accessed over the Internet (Figure 24, column 2 line 20-45, column 16 line 2-20).

As per claim 10, Evans teaches that the EMR system is capable of enabling healthcare providers to remotely enter, access, process, analyze, and annotate data from patient records in real-time (column 5 line 1-28).

As per claim 11, Evans teaches that the healthcare providers are capable of accessing patient data remotely (It is noted that patient data is considered to be "health indicators") (Figure 24, column 5 line 1-28, column 7 line 5-40, column 13 line 1-30).

As per claim 15, Evans teaches a method capable of being implemented by computer (Abstract), comprising:

(a) communicating between an EMR system (Abstract, column 2 line 21) and portable computers (It is noted that communicating with portable computers are considered to be "a portability enabling program") (Abstract);

(b) wherein the EMR system is capable of sharing patient medical records between a plurality of external systems (Figure 1 label 106, "EXTERNAL DATA", Figure 12, Figure 13 label 219, Figure 17A-B) via a data handler and a communication interface (Figure 16 label 272, 274, column 10 line 18-35), and a plurality of legacy systems via a data converter (column 12 line 35-53, Figure 23);

(c) wherein the EMR system is capable of supporting communication among a variety of hardware components (It is noted that a plurality of hardware components are considered to be "different... computer platforms") using a variety of operating systems (column 13 line 31-56), wherein the hardware components comprise:

(i) a PC (Figure 24 label 412, 416, 418);

(ii) a pen-based portable computer (It is noted that the pen-based portable computer is considered to be "a hand-held device") (Figure 24 label 420);

(iii) a network (Figure 24 label 404, 414);

(d) wherein the EMR system is capable of populating and updating the patient record with text (Figure 14 label 223) and image data (Figure 14 label 225) from legacy data systems (column 8 line 57-60) and external sources (column 8 line 18 to column 9 line 37);

(e) wherein image data is stored in a plurality of formats (Figure 14 label 225);

(f) wherein the EMR system is capable of capturing patient data during a patient encounter with a physician (It is noted that encounter data is considered to be "patient episode data") (column 6 line 10 line 10-36, Figure 4) and controlling access thereto via a password system (It is noted that the password system is considered to be "a secure file") (column 15 line 21-32);

(g) wherein the patient data comprises e-mails from other healthcare providers (column 8 line 67 to column 9 line 1).

Evans further teaches that the patient data repository comprises a relational database supporting the Open Database Connectivity (ODBC) model, wherein ODBC is an application program interface (API) capable of enabling client applications running under Microsoft Windows to access data from a variety of data sources, including relational and non-relational DBMS, wherein these data sources may reside on a client machine or on a remote server (column 14 line 8-25).

Evans further teaches a patient locator capable of locating patient data in a plurality of external sources (column 8 line 18 to column 9 line 37).

Art Unit: 3626

Examiner submits that the ODBC model and patient locator of Evans are considered to be a form of "a master control file" when viewed in light of Applicant's specification.

Notwithstanding the above, page 3 paragraph 3 of Applicant's specification reads as follows:

"One way of providing a common set of medical information communications protocols, or common standards, is by an architecture which includes the use of a master control file. A master control file (or MCF) is middleware software storing information which, when read by a computer program referred to as an engine, provides an interface between an application program and the WINDOWS operating system. The master control file (or MCF) provides an open, interoperable, platform and language independent distributed (MCF) architecture. This approach has been enormously successful and has been adopted by numerous large firms around the world as the basic architecture for their complex Patient Record information systems. This infrastructure provides a great deal of power, scalability, and interoperability." (emphasis added)

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of AAPA within the invention as disclosed by Evans with the motivation of enabling client applications to access data from a plurality of external data sources (Evans; column 14 line 11-14).

Evans and AAPA do not teach:

(a) "transmitting the secure file as an e-mail attachment";

Art Unit: 3626

(b) "retrieving the patient episode data from the secure file";

(c) "storing the patient episode data in the medical records system".

Hacker teaches a system (Abstract) capable of:

(a) attaching updated information from the patient visit to an e-mail

(column 8 line 41-42);

(b) translating the attached information by software on the server (It is noted that translating data is considered to be "retrieving") (column 8 line 43);

(c) updating the patient medical record on the medical information database with the translated data (column 8 line 44-45).

Evans teaches a password system, as discussed above and incorporated herein.

It is also noted that the official notice taken in the previous Office Action is taken to be AAPA because Applicant failed to traverse Examiner's assertion.

Page 7 of the previous Office Action reads as follows: "It is well known that emailing data over a network requires some form of security for the data".

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Hacker and AAPA within the invention as disclosed by Evans and AAPA with the motivation of providing privacy for patient records (Hacker; column 6 line 1-10), and of providing convenience to medical providers who have their own electronic medical record system and only need access to very little "outside" medical information (Hacker; column 8 line 25-34).

Art Unit: 3626

As per claim 16, Evans teaches a graphical user interface (It is noted that the GUI is considered to be "medical software") capable of being deployed on a wireless pen-based or laptop computer (Figure 24, column 6 line 9-55, column 13 line 12-30).

As per claim 17, Evans teaches that the ODBC/API is capable of enabling client applications to access data from a variety of data sources, wherein the client is capable of storing, annotating, entering, and accessing patient medical records stored in the patient data repository (column 5 line 1-28, column 14 line 8-25).

As per claim 18, Evan teaches a data manager/patient locator capable of creating a data structure comprising a patient identifier, wherein the data structure comprises pointers to data structures having data within a patient record captured by a pointer of care system (e.g., X-ray images), wherein there exists a plurality of data structures created by the patient locator comprising patient data, interface files, clinical data, progress notes (Figure 13), wherein the files comprises patient data types (reads on "field names, attributes") (Figure 12 column 8 line 29-60).

As per claim 19, Evans teaches database tables comprising a plurality of field names, comprising a patient identifier (Figure 13), wherein the EMR system

Art Unit: 3626

is capable of using the field names to locate, store, and retrieve data (Figure 13, column 5 line 1-28, column 8 line 29 to column 9 line 37).

As per claim 20, Evans teaches a plurality of pointers to a plurality of patient data structures, comprising a reference database, wherein the patient data structure and patient locator are capable of using the pointers to locate, store, and retrieve data (Figure 13, column 5 line 1-28, column 8 line 29 to column 9 line 37).

As per claim 21, Evans teaches a plurality of pointers to image data, wherein the EMR system is capable of displaying the image data when the healthcare provider accesses the files using the data manager (Figure 13-14, column 4 line 64 to column 5 line 27, column 8 line 29 to column 9 line 37).

As per claim 23, Evans teaches an electronic medical records system capable of being accessed over the Internet (Figure 24, column 2 line 20-45, column 16 line 2-20).

As per claim 24, Evans teaches that the EMR system is capable of enabling healthcare providers to remotely enter, access, process, analyze, and annotate data from patient records in real-time (column 5 line 1-28).

Art Unit: 3626

As per claim 25, Evans teaches that the healthcare providers are capable of accessing patient data remotely (It is noted that patient data is considered to be "health indicators") (Figure 24, column 5 line 1-28, column 7 line 5-40, column 13 line 1-30).

As per claims 29, 30, 31, 32, 33, 34, 35, 37, 38, 39, Evans, Hacker, and AAPA teach the method of claims 15, 16, 17, 18, 19, 20, 21, 23, 24, 25, respectively, as discussed above and incorporated herein. See MPEP 2106.01(I).

As per claim 43, Evans teaches a system (It is noted that a system is considered to be "an apparatus") (Abstract), comprising:

(a) an EMR system (It is noted that the EMR system is considered to be "a computer system") (Abstract, column 2 line 21) capable of communicating with portable computers (It is noted that communicating with portable computers are considered to be "executing portability enabling software") (Abstract);

(b) wherein the EMR system is capable of sharing patient medical records between a plurality of external systems (Figure 1 label 106, "EXTERNAL DATA", Figure 12, Figure 13 label 219, Figure 17A-B) via a data handler and a communication interface (Figure 16 label 272, 274, column 10 line 18-35), and a plurality of legacy systems via a data converter (column 12 line 35-53, Figure 23);

Art Unit: 3626

(c) wherein the EMR system is capable of supporting communication among a variety of hardware components (It is noted that a plurality of hardware components are considered to be "different... computer platforms") using a variety of operating systems (column 13 line 31-56), wherein the hardware components comprise:

(i) a PC (Figure 24 label 412, 416, 418);

(ii) a pen-based portable computer (It is noted that the pen-based portable computer is considered to be "a hand-held device") (Figure 24 label 420);

(d) wherein the EMR system is capable of populating and updating the patient record with text (Figure 14 label 223) and image data (Figure 14 label 225) from legacy data systems (column 8 line 57-60) and external sources (column 8 line 18 to column 9 line 37);

(e) wherein image data is stored in a plurality of formats (Figure 14 label 225);

(f) wherein the EMR system is capable of capturing patient data during a patient encounter with a physician (It is noted that encounter data is considered to be "patient episode data") (column 6 line 10 line 10-36, Figure 4) and controlling access thereto via a password system (It is noted that the password system is considered to be "a secure file") (column 15 line 21-32);

(g) wherein the patient data comprises e-mails from other healthcare providers (column 8 line 67 to column 9 line 1).

Art Unit: 3626

Evans further teaches that the patient data repository comprises a relational database supporting the Open Database Connectivity (ODBC) model, wherein ODBC is an application program interface (API) capable of enabling client applications running under Microsoft Windows to access data from a variety of data sources, including relational and non-relational DBMS, wherein these data sources may reside on a client machine or on a remote server (column 14 line 8-25).

Evans further teaches a patient locator capable of locating patient data in a plurality of external sources (column 8 line 18 to column 9 line 37).

Examiner submits that the ODBC model and patient locator of Evans are considered to be a form of "a master control file" when viewed in light of Applicant's specification.

Notwithstanding the above, page 3 paragraph 3 of Applicant's specification reads as follows:

"One way of providing a common set of medical information communications protocols, or common standards, is by an architecture which includes the use of a master control file. A master control file (or MCF) is middleware software storing information which, when read by a computer program referred to as an engine, provides an interface between an application program and the WINDOWS operating system. The master control file (or MCF) provides an open, **interoperable, platform and language independent distributed (MCF) architecture**. This approach has been enormously successful and has been **adopted by numerous large firms** around the world as the basic

Art Unit: 3626

architecture for their complex Patient Record information systems. This infrastructure provides a great deal of power, scalability, and interoperability.” (emphasis added)

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of AAPA within the invention as disclosed by Evans with the motivation of enabling client applications to access data from a plurality of external data sources (Evans; column 14 line 11-14).

Evans and AAPA do not teach:

- (a) “transmitting the secure file as an e-mail attachment”;
- (b) retrieving the patient episode data from the secure file”;
- (c) “storing the patient episode data in the medical records system”.

Hacker teaches a system (Abstract) capable of:

- (a) attaching updated information from the patient visit to an e-mail (column 8 line 41-42);
- (b) translating the attached information by software on the server (It is noted that translating data is considered to be “retrieving”) (column 8 line 43);
- (c) updating the patient medical record on the medical information database with the translated data (column 8 line 44-45).

Evans teaches a password system, as discussed above and incorporated herein.

It is also noted that the official notice taken in the previous Office Action is taken to be AAPA because Applicant failed to traverse Examiner's assertion.

Art Unit: 3626

Page 7 of the previous Office Action reads as follows: "It is well known that emailing data over a network requires some form of security for the data".

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Hacker and AAPA within the invention as disclosed by Evans and AAPA with the motivation of providing privacy for patient records (Hacker; column 6 line 1-10), and of providing convenience to medical providers who have their own electronic medical record system and only need access to very little "outside" medical information (Hacker; column 8 line 25-34).

As per claim 44, Evans teaches a network (Figure 24 label 404, 414).

Claim(s) 12, 26, 40 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans in view of Hacker and AAPA as applied to parent claims 9, 15 above, respectively, and further in view of Swanson (6112183).

As per claim 12, Evans teaches that the EMR system is capable of capturing data in a point of care system (column 16 line 2-20) and securing data using a tiered-password system (column 15 line 8-32).

Evans does not teach "compresses, encrypts, and encapsulates patient episode data into the secure file".

It is noted that the official notice taken in the previous Office Action is taken to be AAPA because Applicant failed to traverse Examiner's assertion.

Art Unit: 3626

Page 10 of the previous Office Action reads as follows: "it is well known in the art to compress data, encrypt data, and encapsulate patient data".

Swanson also teaches encryption, compression, and encapsulation (column 2 line 26-31).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Swanson and AAPA within the invention as disclosed by Evans, Hacker, and AAPA with the motivation of providing superior protection of patient data (Evans; column 15 line 29-32).

As per claim 26, Evans teaches that the EMR system is capable of capturing data in a point of care system (column 16 line 2-20) and securing data using a tiered-password system (column 15 line 8-32).

Evans does not teach "compressing, encrypting, and encapsulating patient episode data into the secure file".

It is noted that the official notice taken in the previous Office Action is taken to be AAPA because Applicant failed to traverse Examiner's assertion. Page 10 of the previous Office Action reads as follows: "it is well known in the art to compress data, encrypt data, and encapsulate patient data".

Swanson also teaches encryption, compression, and encapsulation (column 2 line 26-31).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Swanson and AAPA within the

Art Unit: 3626

invention as disclosed by Evans, Hacker, and AAPA with the motivation of providing superior protection of patient data (Evans; column 15 line 29-32).

As per claim 40, Evans, Hacker, AAPA, and Swanson teach the method of claim 26, as discussed above and incorporated herein. See MPEP 2106.01(I).

Claim(s) 13-14, 27-28, 41-42 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans in view of Hacker, AAPA, and Swanson as applied to parent claims 12, 12, 26, 26, 40, 40 above, respectively, and further in view of Haudenschild (6665647).

As per claims 13-14, Evans, Hacker, AAPA, and Swanson do not teach:

(a) "transmits the secure file to a repository mail sever, which de-encapsulates and uncompresses the secure file and stores the de-encapsulated, uncompressed secure file into a patient medical record";

(b) "a messages is transmitted to an assigned physician notifying the assigned physician of the receipt of the patient episode data".

Haudenschild teaches a system (Abstract) capable of encrypting sensitive data at one end of transmission and decrypting the encrypted data at the other end of transmission, and notifying all parties via messages (column 6 line 48-65).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Haudenschild within the

Art Unit: 3626

invention as disclosed by Evans, Hacker, AAPA, and Swanson with the motivation of protecting sensitive data (Haudenschild; column 6 line 48-65).

As per claims 27-28, Evans, Hacker, AAPA, and Swanson do not teach:

- (a) "transmitting the secure file to a repository mail sever";
- (b) "de-encapsulating and uncompressing the secure file";
- (c) "storing the de-encapsulated, uncompressed secure file into a patient medical record";
- (d) "transmitting transmitted to an assigned physician notifying the assigned physician of the receipt of the patient episode data".

Haudenschild teaches a system (Abstract) capable of encrypting sensitive data at one end of transmission and decrypting the encrypted data at the other end of transmission, and notifying all parties via messages (column 6 line 48-65).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the features of Haudenschild within the invention as disclosed by Evans, Hacker, AAPA, and Swanson with the motivation of protecting sensitive data (Haudenschild; column 6 line 48-65).

As per claims 41, 42, Evans, Hacker, AAPA, Swanson, and Haundenschild teach the method of claims 27, 28, respectively, as discussed above and incorporated herein. See MPEP 2106.01(I).

Response to Arguments

Applicant's arguments filed 06/04/2007 have been fully considered but they are not persuasive.

As per claim 1, on page 11-14 of the Remarks Applicant argues that AAPA does not admit "a master control file" as claimed.

Page 3 paragraph 3 of Applicant's specification reads as follows:

"One way of providing a common set of medical information communications protocols, or common standards, is by an architecture which includes the use of a master control file. A master control file (or MCF) is middleware software storing information which, when read by a computer program referred to as an engine, provides an interface between an application program and the WINDOWS operating system. The master control file (or MCF) provides an open, **interoperable, platform and language independent distributed (MCF) architecture**. This approach has been enormously successful and has been **adopted by numerous large firms** around the world as the basic architecture for their complex Patient Record information systems. This infrastructure provides a great deal of power, scalability, and interoperability." (emphasis added)

Although Applicant argues that this portion of the specification and Figure 3 of the drawings refer to an MCF between already compatible systems, the emphasized sections above clearly states that the MCF provides an "interoperable" and "platform and language independent" architecture.

Art Unit: 3626

Assuming *arguendo* that Applicant is correct that Figure 3 does not illustrate an MCF between different systems, at least the cited sections above illustrate that an MCF capable of providing interoperability between systems of different platforms and languages is old and well established in the art.

On page 14 Applicant further argues that Evans does not teach "a master control file".

Examiner submits that the ODBC model and patient locator of Evans are considered to be a form of "a master control file" when viewed in light of Applicant's specification, as discussed above and incorporated herein.

Examiner further notes that page 5 of the previous Office Action reads as follows: "Evans does not explicitly disclose "a master control file". It appears, however, that ODBC model and patient locator are a form of a master control file when viewed in light of Applicant's specification".

Notwithstanding the above, AAPA admits an MCF, as discussed above and incorporated herein.

The remainder of Applicant's arguments on page 15-17 merely repeats the arguments addressed above, and incorporated herein.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Art Unit: 3626

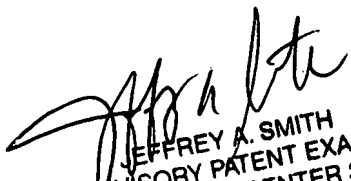
De Moor (Towards a meta-syntax for medical edi) teaches a method of translating messages to provide interoperability between a plurality of systems.

Any inquiry concerning this communication or earlier communications from Examiner should be directed to Tran N. Nguyen (Ken) whose telephone number is (571) 270-1310. The examiner can normally be reached on Monday - Friday, 9:00 am - 5:00 pm, Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, Examiner's Supervisor, Joseph Thomas can be reached on (571) 272-6776.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TN 
08/31/2007


JEFFREY A. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600